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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/058,953 | 01/28/2002 | Katsuichi Osakabe | PW 0277036 H7622US | 4629 |

7590 06/29/2005

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| EXAMINER |
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EDUN, MOHAMMAD N

| ART UNIT | PAPER NUMBER |
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2655

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,953

Applicant(s)

OSAKABE, KATSUICHI

Examiner

MUHAMMAD N. EDUN

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 22-29, 34 and 36 is/are allowed.
- 6) ☒ Claim(s) 8, 11, 15, 18, 30, 31 and 35 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12-14, 16, 17, 19-21, 31 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 35 is deemed improper because it depends on itself. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 8, 11, 15, 18, 30 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Teshirogi et al. (6,212,143).

Teshirogi et al. discloses the invention as claimed. Figs. 1-8 show the optical disk apparatus including an optical disk (1) having the central axis (center of the disk) and major face (surface facing the optical pickup (2)) extending in the radial direction from the central axis and being rotated around the central axis having: the disk rotated at either angular velocity (CAV) or linear velocity (CLV) (see the abstract); the recording layer being optically recordable and being formed with track of a predetermined track pitch (not specifically shown, however inherent to the CD and MD or other kinds of optical disk structure as described in columns 1-2) ; and wherein the disk is preliminarily recorded with control information indicative of either linear velocity or angular velocity which is readily readable from the recording layer of the optical disk to facilitate the accessing of the tracks by the optical beam (the control information representing the linear velocity or angular velocity is taken to be the clock information recorded on the optical disk, which is then reproduced and extracted by the clock extracting unit (5) for providing control information to the CLV control unit (6) or CAV control unit (16) for rotating the optical disk and providing the ability of accessing and tracking control, see columns 6 and 8), as set forth in claims 11, 15, 18, 30 and 31. See also the description of the apparatus and figures for further details relating to the limitations as set forth in the claims.

Allowable Subject Matter

Claims 1-7, 22-29, 34 and 36 are allowed.

Claim 9, 10, 12-14, 16, 17, 19-21, 31 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter.

The prior art of record alone or in combination does not teach or suggest the optical disk and apparatus having the combination of elements with their recited structure, along with the specific structure of the optical disk having: the control information indicative of the predetermined track pitch, as set forth in claims 1-7, 28 and 29; the control information indicative of the track pitch and BCD codes, as set forth in the claims 22-25 and 34; the track area being divided into a program region where contents information can be written for recording, a trial region where trial writing can be performed before writing of the contents information, and a free region provided radially inward of the trial region, wherein the recording layer is preliminarily recorded with control information in the track of the free regions, as set forth in claims 26 and 36; and the lead-out region succeeding the program region in a progression direction of the accessing by the optical beam and PMA region, as set forth in claims 27, and as disclosed in the specification.

The prior art further does not teach the optical disk and apparatus of claims 8, 15, 30 and 32, having the further limitations as set forth in claims 9, 10, 12-13, 16, 17, 19-21, 31 and 33, and as disclosed in the specification.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maeda (6,201,784) discloses an optical disk having control information recorded on the recording layer of the optical disk.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUHAMMAD N EDUN whose telephone number is 571-272-7617. The examiner can normally be reached on FLEXITIME.



MUHAMMAD N EDUN
Primary Examiner
Art Unit 2655